

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ILLINOIS

JOSE RAMIREZ,

Plaintiff,

v.

HARRELL WATTS, et al.,

Defendants.

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Civil No. 04-670-MJR

NOTICE and ORDER

PROUD, Magistrate Judge:

Defendant/s has/have filed a Motion to Dismiss the Amended Complaint or alternatively Enter Summary Judgment, along with a memorandum of law in support. **(Docs. 84).**

Lewis v. Faulkner, 689 F.2d 100 (7th Cir. 1982) requires that, when a defendant has filed a motion for summary judgment supported by affidavit, “a prisoner who is a plaintiff in a civil case and is not represented by counsel is entitled to receive notice of the consequences of failing to respond with affidavits to a motion for summary judgment.” *Lewis*, at 102.

The Court reminds defense counsel that the Court of Appeals for the Seventh Circuit expects that the required notice will be filed along with the motion, thereby relieving the Court of the necessity of preparing the notice. *Lewis v. Faulkner*, 689 F.2d 102-103.

Plaintiff is hereby notified that Fed.R.Civ.P. 56(e) states:

When a motion for summary judgment is made and supported as provided in this rule, an adverse party may not rest upon the mere allegations or denials of the adverse party’s pleading, but the adverse party’s response, by affidavits or as otherwise provided in this rule, must set forth specific facts showing that there is a genuine issue for trial. If the adverse party does not so respond, summary judgment, if appropriate, shall be entered against the adverse party.

Plaintiff is further notified that any factual assertion in the movant's affidavits will be accepted by the Court as being true unless the plaintiff submits his own affidavits or other documentary evidence contradicting the assertion.

Plaintiff is **granted additional time, up to and including May 23, 2007**, in which to file his response to the Motion for Summary Judgment.

IT IS SO ORDERED.

DATED: April 23, 2007

s/ Clifford J. Proud
CLIFFORD J. PROUD
U. S. MAGISTRATE JUDGE